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TRANSMITTAL FORM

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Total Number of Pages in This Submission

3

Application Number

10/608250

Filing Date

06/27/2003

First Named Inventor

Ferree

Art Unit

3738

Examiner Name

Isabella

Attorney Docket Number

SP110.1

ENCLOSURES (Check all that apply)

☐

Fee Transmittal Form

☐

Fee Attached

☒

Amendment/Reply

☐

After Final

☐

Affidavits/declaration(s)

☐

Extension of Time Request

☐

Express Abandonment Request

☐

Information Disclosure Statement

☐

Certified Copy of Priority Document(s)

☐

Reply to Missing Parts/
Incomplete Application

☐

Reply to Missing Parts
under 37 CFR 1.52 or 1.53

☐

Drawing(s)

☐

Licensing-related Papers

☐

Petition

☐

Petition to Convert to a
Provisional Application

☐

Power of Attorney, Revocation

☐

Change of Correspondence Address

☐

Terminal Disclaimer

☐

Request for Refund

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CD, Number of CD(s) _____

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Landscape Table on CD

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After Allowance Communication to TC

☐

Appeal Communication to Board
of Appeals and Interferences

☐

Appeal Communication to TC
(Appeal Notice, Brief, Reply Brief)

☐

Proprietary Information

☐

Status Letter

☒

Other Enclosure(s) (please identify
below):

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Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name

Jerrold J. Litzinger

Signature

Jerrold J. Litzinger

Printed name

Jerrold J. Litzinger

Date

February 10, 2005

Reg. No.

29402

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Feb. 10, 2005

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: FERREE

Serial No.: 10/608,250

Filing Date: June 27, 2003

For: FUSION AND
ARTHROPLASTY
DEVICES CONFIGURED
TO RECEIVE BONE GROWTH
PROMOTING SUBSTANCES

Group Art Unit: 3738

Examiner: Isabella

Paper No.: 6

Honorable Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

RESPONSE TO RESTRICTION REQUIREMENT

Responsive to the restriction requirement set forth in the Office Action dated January 11, 2005 (Paper No. 20050107), Applicant hereby provisionally elects claims 14-20 for continued examination, with traverse.

The Examiner states that the application contains claims directed to the following patentably distinct species of the claimed invention: FIG. 2; 6; 7; 8A; 9A; 9C; 10A; 10C; 11A; 11C; 11E; 12A; 13; 14; 15A; 17; 18A; 19; 20; 21; 22A; 22B; 23A; 23C; 24A; 24D; 25A; 25B; 26; 27A; 28A; 28C. This statement is respectfully traversed.

Claims 1-13 are directed to the device shown in FIGS. 19 and 20, while claims 14-20 are directed to FIGS. 21, 22A and 22B. Other figures shown in the application are the subjects of other patent applications which were filed on the

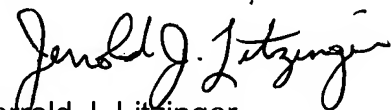
same day as the above application. The features claimed in this application are not shown in any of the other figures. Thus, they should not be the subject of this restriction.

It is submitted that the claims of this application are directed to very similar devices. FIG. 20 shows a device in which the channels are within the body of the device, while FIGS. 22A-B show a device in which the grooves are in the outer surface of the body of the device.

Applicant respectfully submits that, given the circumstances of this case, where there is a reasonable number of claims, it would not be a serious burden to examine the claims pending at this time. M. P. E. P. § 803 directs as follows (emphasis added): "If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions. This directive should be followed in this case.

Allowance of the application is respectfully solicited.

Respectfully submitted,



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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trade-marks, Washington, D.C. 20231, on Feb. 10, 2005.
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Person Signing Certificate

Jervold J. Litzinger
Signature of Person Signing
Certificate

FEB. 10, 2005
Date of Signature